



OFFICE OF THE
BOARD OF APPEALS
TOWN OF DUNSTABLE
TOWN HALL
511 MAIN STREET
DUNSTABLE, MA 01827-1313

Accepted
5/22/13

Gurecki Hearing Minutes
April 5, 2013

Members Present: Leo Tometich, Chairperson
John Martin, Clerk
Ted Gaudette, Member
Lisa O'Connell, Member
Al Horton, Associate Member
Gerald Mead, Associate Member

Members Absent: Josh West, Member
Judy Thompson, Associate Member

Petitioners Present: Barbara Gurecki, 423 Pleasant Street
Bob Gurecki, 423 Pleasant Street
Mark Lanza, Esq., Representation

Abutters Present: Wes and Jodi Goss, 446 Pleasant Street
Stephen Armato, Esq., Representation for the Goss'
Harold and Lorraine West, 64 Woods Court
Alan Chaney, 240 Westford Street

Others Present: Rich Larkin, Dunstable Town Counsel
Ruth Lowder, Secretary
Alan Chaney, 240 Westford Street
Jay and Karen Jewell, 12 Upton Street
Robert Kennedy, 346 High Street

Chairperson Leo Tometich called the hearing to order at 7:05 read the posted hearing notice for the record and introduced the board members.

This meeting's intent was to file a formal decision with the Town Clerk regarding the application of Barbara A. Gurecki of 511 Main Street, Dunstable, MA, of the decision of the alternate Building Inspector dated October 31, 2012 and corrected on November 16, 2012, not to take enforcement action under the Dunstable Zoning Bylaw relative to certain activities being conducted on premises located behind 446 Pleasant Street, being lot number 43 on Map number 8 in Dunstable, comprising handgun shooting competitions on horseback with various ancillary activities. The appeal seeks an order of the Zoning Board of Appeals requiring immediate cessation of horse mounted practices and competitions at the premises. The hearing is scheduled to run together with a hearing under an ongoing appeal about activity at 446 Pleasant Street, Dunstable.

At the commencement of the hearing, counsel for Goss and an organization called “Northeast Six Shooters” advised the Board that the arena in which the subject pistol shooting activity was taking place was not on Goss Farm, but rather on land lying behind Goss farm owned by the trustees of the Goss Family Land Trust. The Chair duly noted the advisory and stated that the hearing before the Board would proceed.

Counsel for the appellant presented the case to the Board that under the Dunstable Zoning Bylaw, §5, if a particular activity was not authorized in a given district, it was prohibited. He stated that according to the Zoning Bylaw, the district in which the activity to which his client objected was being carried on (i.e., the R-1 District) did not allow the activity. Therefore, it was prohibited.

The appellant read from a prepared written statement to the Board. See the attached statement received from the appellant.

Counsel for Goss made a counter argument that the shooting activity was not objectionable, that several persons in the neighborhood had signed a statement of non-objection, and that the appellant’s legal standing was doubtful.

The chair then solicited comment from members of the public in attendance. Several persons present made statements pro and con about their personal opinion of the activities.

With all comment received from the public as well as interested parties and their counsel, the chair announced the closing of the public hearing and the commencement of deliberations by the Board.

The chair stated that the Board’s decision was necessarily controlled by the content of the Zoning Bylaw. Before considering the provisions of the Bylaw, he alluded to certain facts brought forward in the hearings or upon observation on September 29 at the Goss Farm and Goss Family Land trust location. He briefly referenced the activities that took place in the arena located on the Goss Family Land Trust land and inquired whether there was agreement on the character of the shooting activities in the arena as described in the appeal and observed on September 29. All members concurred. He referenced the Goss Farm property and inquired whether it was providing support to the arena activities. All members agreed the Goss Farm property provided vehicular and pedestrian access to the arena and parking.

Member Ted Gaudette noted that the Bylaw seems to have provided for activities in the nature of those taking place on the properties that were the subject of the appeal. He referred specifically to the Commercial Recreational District, of which there were three or four locations in the town, established pursuant to Section 6a of the Bylaw. He noted that the District was intended to allow “...facilities designed for group or individual participation in recreational pursuits which are carried primarily out of doors....” He noted further that any such activities within the Commercial Recreational District required a special permit of the Board of Selectmen. He reasoned that the persons who had drafted the Bylaw for adoption at the town meeting, and the voters who had duly adopted the provisions, had intended to provide and designate the three or four district areas classified “Commercial Recreational” for activities such as had been occurring recently on the Goss Family Land Trust property.

Member Ted Gaudette raised the rhetorical question whether the presumed fact of the shooting activity on the Goss Family Land Trust property would eliminate questions of involvement of the Goss Farm property. Town Counsel advised the Board that secondary supportive activity on the Goss Farm property could be found to be in violation of the Bylaw if the activity supported was in violation.

Chairman Leo Tometich announced that he would designate the five members who would vote on the consolidated appeals based on attendance at the several sessions. He designated Ted Gaudette, Gerald Mead, John Martin, Lisa O’Connell, and himself.

Pursuant to the prompting of Chairman Leo Tometich, Member Ted Gaudette proposed a motion that the Board find the mounted shooting activities on the Goss Family Land Trust land and the parking and access activities in support of the shooting events on the Goss Farm property to be in violation of the Dunstable Zoning Bylaw. The motion was seconded. It was explained that the results of this vote would inform the ultimate action to be taken in respect to the appeals. The members were asked to state their votes:

Leo Tometich	In violation
Ted Gaudette	In violation
Gerald Mead	In violation
John Martin	Not in violation
Lisa O'Connell	In violation

Chairman Leo Tometich called for a motion to determine the action to be taken in regard to Ms. Gurecki's appeals. Member Ted Gaudette made the motion that the Board overturn the action of the Assistant Building Inspector relative to the two requests made by Ms. Gurecki that he enforce the Zoning Bylaw and that the Board issue an order to the proprietors of each subject property to require the immediate cessation of the horse-mounted shooting practices and competitions at the properties. The motion was seconded. The members were asked to state their votes:

Leo Tometich	Affirmative
Ted Gaudette	Affirmative
Gerald Mead	Affirmative
John Martin	Negative
Lisa O'Connell	Affirmative

Chairman Leo Tometich announced that the complement of four out of five affirmative votes met the legal requirement for the petitioner, and that accordingly, she had prevailed on the two appeals.

Leo Tometich asked for a motion to close the hearing. John Martin motioned to close the meeting, Ted Gaudette seconded the motion and all were in favor. The hearing was closed at 9:00 pm.